

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

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JOHN DILLARD, et al.,

Plaintiffs,

v.

TOWN OF KINSEY,

Defendant.

CASE NO. 2:87-CV-1238

MOTION TO DISMISS


The Town of Kinsey, defendant in this action, by and through the undersigned counsel, moves to dismiss this action in its entirety for the following reasons:

1. In a Consent Decree and Order entered on May 19, 1989, that has applied to this day, this Court directed, among other things, that the Town Council "consist of 7 members elected at-large, without designated or numbered places, and with the 7 candidates receiving the most votes being elected and each voter casting only one vote."
2. In Act No. 2006-252, the Alabama Legislature provided a state-law basis for the remedial order entered in this case. The Legislature further provided that the size of the Town Council, its method of election, or both, can be changed by general or local law in the future. Act No. 2006-252 was precleared on July 19, 2006, and is therefore effective.
3. In the past, federal court orders, some entered by consent and some entered without the consent of the defendants, changing the size of the local governing body, its method of election, or both, have been challenged on the ground that they may have exceeded the court's remedial powers, conflicted with state law or both. With respect to the Town of Kinsey, Act No. 2006-252 moots any such contention.

4. The dismissal of this case will leave the limited voting scheme in place.
5. The Dillard Plaintiffs have no objection to the dismissal of this action and do not claim an attorneys' fee from this defendant.

WHEREFORE this case should be dismissed.

Respectfully submitted,


H. Samuel Prim III (PRI064)
Attorney for Town of Kinsey
Prim Freeman, & Mendheim, LLC
Post Office Box 2147
Dothan, AL 36302-2147

CERTIFICATE OF SERVICE

17 th I HEREBY CERTIFY that a true and correct copy of the foregoing has this day of August, 2006, been furnished by United States Mail to the following:

James U. Blacksher, Esq.
P.O. Box 636
Birmingham, AL 35201-0636


David Boyd
Dorman Walker
P. O. Box 78
Montgomery, AL 36101

Gary Sherrer, Esq.
Sherrer, Jones, & Terry
335 West Main Street
Dothan, AL 36301

Edward Still
2112 11th Avenue South
Suite 201
Birmingham, AL 35205

Norman J. Chachkin, Esq.
NAACP Legal Defense & Ed. Fund, Inc.
99 Hudson Street, 16th Floor
New York, NY 10013

John J. Park, Jr., Esq.
State of Alabama
Office of the Attorney General
11 South Union Street
Montgomery, AL 36130



OF COUNSEL